cation of the facts to it comes within the general experience of mankind it is usually held to be for the jury. Such a rule, for example, is the ordinary rule of due care. *Bridges* v. *The North London R. R. Co.*, L. R. 7 H. L. 213. If, however, the rule is not clearly formulated, and if the definition, as far as it can be given, is difficult for those untrained in law to understand and so is liable to great misuse, as in the case with the rule of proximate cause, the application is for the court. *Pike* v. *Grand Trunk R. R. Co.*, 39 Fed. Rep. 255. The question whether the facts in a case come within a given rule of law, is however, always a question of fact, be it for the jury or for the court, and never a question of law as the court in the present case seem to consider it. See 4 HARV. LAW REV. 147.

TRUSTS — COLLECTING BANK — FOLLOWING TRUST FUNDS. — X deposited a draft with bank A for collection, which sent the draft to Bank B, its correspondent. Bank B collected it, credited the account of bank A with the amount, and after bank A became insolvent paid the proceeds of the draft to the receiver. *Held*, that X is entitled to the proceeds. *Guignon* v. *First Nat. Bank*, 55 Pac. Rep. 1051 (Mont.).

The decision is sound and finds support in numerous authorities. *Com. Nat'l Bank* v. *Hamilton Nat. Bank*, 42 Fed. Rep. 880; *Henderson* v. *O'Conor*, 106 Cal. 385; *Com. Bank* v. *Armstrong*, 148 U. S. 50. Ordinarily, payment by the sub-agent bank will change the relation between the agent bank and the depositor from that of trust to one of debtor and creditor. But the clearest principles of justice prevent the bank from assuming the position of a debtor to its depositor after its known insolvency. *Mfgr's Nat. Bank* v. *Continental Bank*, 148 Mass. 553.

TRUSTS — EQUITABLE ASSIGNMENTS — NOTICE TO TRUSTEES. — A *cestui que trust* of personalty assigned his interest, the assignee giving notice of his claim to all the trustees then in office. Subsequently the trustees were changed. The *cestui que trust* then fraudulently executed a second assignment of his interest, and the second assignee brought his claim to the knowledge of the new trustees before they had heard of the first assignment. *Held*, that the first assignment has priority over the second. *In re Wasdale*, [1899] 1 Ch. D. 163.

It has long been a well established doctrine in England that the assignee of an equitable interest in personalty must give notice to the trustees of the legal title in order to render his claim secure. *Dearle* v. *Hall*, 3 Russ. 1; *Foster* v. *Cockerell*, 3 Cl. & F. 456. It has been further held that security, gained for the time being by notice to one of several trustees, may be lost by the death or retirement of that trustee from office, if a later incumbrancer is the first to bring his claim to the knowledge of the surviving trustees. *Timson* v. *Ramsbottom*, 2 Keen, 35; *In re Hall*, 7 L. R. Ir. 180. The tendency of these decisions, designed for the protection of subsequent incumbrancers who have acted in good faith and with due care, seems opposed to the holding in the principal case, for after a complete change of trustees the second incumbrancer, at the time of his transaction, is equally unprotected whether all or merely one of the original trustees were informed of the first assignment. The restriction here placed upon the doctrine of *Dearle* v. *Hall*, *supra*, appears arbitrary rather than logical. Yet the result reached is in accord with a sound principle that of two conflicting equities against the same person the one prior in time should prevail.

REVIEWS.

SELECT CASES IN THE COURT OF REQUESTS. 1497–1569. Edited for the Selden Society by I. S. Leadam. London: 1898. pp. viii, 257.

The appearance of this latest volume of the publications of the Selden Society emphasizes a change that has gradually come about since, in the first volume, Professor Maitland wrote that (the aim of the Society being the publication of materials for legal history) a critical description of the manuscripts used would be a sufficient introduction. In the present volume the Introduction is half the work, and much the more important half. It is a capital introduction, and we are glad to have it; but we should also welcome a volume chiefly filled with "materials for legal history," — the long-promised second volume of "Select Pleas of the Crown," for example.

This volume illustrates another tendency of the society, the publication of matter of little legal value, though interesting to a student of the constitutional history of England. Since this volume appeared we know a good deal more than before about that obscure body, the Court of Requests; we know something more about the life of common people in the Tudor period; but we do not know a particle more about the history of English law. Perhaps the rolls of the King's Courts alone would inform us, and the Society cannot be constantly occupied with those rolls.

The Court of Requests was the "poor man's court" of equity, the civil side of the Star Chamber. It took its procedure from the civil law, and sent out commissions to magistrates to take testimony. In the files of the court is a mass of testimony, taken on interrogatories, parts of which form the most valuable portion of the records here published.

The court is chiefly of importance as having been involved in a quarrel as to jurisdiction with the Common Pleas and the King's Bench; a merry war of injunction and prohibition marked the reign of James, and the court finally fell with the first Charles. The apologist for the Court of Requests was the great lawyer, Sir Julius Cæsar, for many years a Master of Requests. He derived the jurisdiction of the Court from the Privy Council, of which it claimed to be an offshoot. The King in Council, according to this opinion, still had plenary power to establish new courts by a process that reminds one of the budding and the cellular growth of polyps. The common lawyers, on the other hand, held that all courts must be by custom, statute, or ancient grant, and that the Court of Requests was an unconstitutional novelty. "The Judges of the Court of Whitehall," said the Common Bench, "have none authoritie either to sitt there or to comitt any man from thence." Coke discharged on Habeas Corpus one held for contempt of the Requests, and ordered him to bring an action for false imprisonment. Notwithstanding this double severity, the Requests continued to grow in the sunshine of court favor, and only fell with the fall of Prerogative at the civil war.

The most important cases of which the records are here published had to do with the efforts of tenants to establish against their lords the ancient customs of manors. The disorders of the War of the Roses and the dissolution of the monasteries seriously wrenched the land-laws. Manors lost alternately their freehold and their copyhold tenants, until every occupant was treated by his lord as a tenant at will, and the lord was likely to be able to defend such treatment in a court of law. The Court of Requests was regarded as more favorable to tenant rights; and though in the cases here reported the Court seems to have found no method of modifying the law to the tenant's advantage, it exercised a persuasive influence over the landlords, and thus to an extent ameliorated the plaintiff's woes.

The other cases seem not to be important. Mr. Leadam's editorial work, as has been said, gives strength and character to the volume.

J. H. B.

A Sketch of Anne Robert Jacques Turgot. By James M. Barnard. Boston. 1898. pp. 63.

Mr. James M. Barnard, of Boston, a gentleman much interested in the improvement of instruction in the law schools of our country, has recently presented to our law library a valuable sketch of Turgot, with various comments upon his character and public services. It contains a letter of